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ABSTRACT

A historical study was conducted to determine what type of access to the prison legal library is received by prisoners now housed on death row at the Mansfield Correctional Institution (MaCI) (Mansfield, Ohio) that were formerly housed at the Southern Ohio Correctional Facility (SOCF) (Lucasville, Ohio). A satellite law library had been created for death row inmates at SOCF; however, the library was small, materials were outdated, and it was maintained by an inmate with no experience in the field of library science. Initially, inmates of SOCF were denied physical access to the institution's main library and the process of receiving books from there was slow and ineffective. When the satellite library was created, death row inmates received somewhat better access to legal materials and access to legal assistance. These inmates were attempting to operate a library to support themselves without much help from prison authorities. Legal documents, still pending, were filed in an attempt to make the satellite library more adequate. With the move to the MaCI in early 1995, death row inmates were introduced to a more complete library. Prison authorities are now working with these inmates to produce and maintain a self-sufficient library. New books have been ordered and plans are underway to enlarge the library. The facility at MaCI is almost solely for the use of death row inmates; the library can now be considered adequate in guaranteeing access to legal information. Appendices include an outline of minimum required materials for inmate law libraries (1990), a list of recommended collections for prison law libraries (1989) by the American Association of Law Libraries, copies of requests from SOCF, and a partial list of books sent by the Office of the Ohio Public Defender to the Death Row Satellite Law Library at SOCF. (Contains 32 references.) (AEF)

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A HISTORICAL ANALYSIS OF LIBRARY ACCESS FOR DEATH ROW INMATES IN OHIO

A Master's Research Paper submitted to the
Kent State University School of Library and Information Science
in partial fulfillment of the requirements
for the degree Master of Library Science

by

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April, 1995

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HISTORICAL ANALYSIS OF LIBRARY ACCESS FOR DEATH ROW INMATES IN OHIO

According to such documents as the Library Bill of Rights and the Resolution on Prisoners' Right to Read, all persons regardless of age, background or views have the right to a library and the right to read and access the materials housed within that library. This is a constitutional right afforded to citizens of this country, including prison inmates under the right of access to the courts. This right should be guaranteed to all inmates, regardless of prisoner status within the correctional institution. However, this is not always the case. It needs to be determined what type of access to the prison legal library is received by prisoners housed on Death Row at the Mansfield Correctional Institution (MaCI) in Mansfield, Ohio, formerly housed at the Southern Ohio Correctional Facility (SOCF) in Lucasville, Ohio. A satellite library was created for death row inmates at SOCF. The library was small, materials outdated and it was maintained by an inmate with no experience in the field of library science. A historical study will be conducted of this satellite library to look at its origins, discover how it operates and to determine what prospects the future may have for this library.

INTRODUCTION

All prisoners housed within correctional institutions retain certain constitutional rights as set forth by the Constitution of the United States of America. One of these rights is the right of access to the courts as stated in the Fourteenth Amendment. The right of access to the courts is needed so prisoners can present the procedural and substantive rights that are guaranteed to them. Also, the right of access to the courts ". . . encompasses all the means a defendant or petitioner might require to get a fair hearing from the judiciary on all charges brought against him or grievances alleged by him."[1] This can be supported by either the establishment of an adequate law library or provision of adequate assistance from someone trained in the law.[2] However, with the number of the inmate population growing at extreme proportions[3], the most successful way of

1 *Gilmore v. Lynch*, 319 F.Supp. 105 (D.C.Cal. 1970)

2 *Bounds v. Smith*, 430 U.S. 817, 52 L.Ed.2d 72, 97 S.Ct. 1491 (1977)

3 Steven A. Holmes, "U.S. Prison Population Tops 1 Million for First Time," Plain Dealer (Cleveland), 28 October 1994, p. 1A, 11A.

guaranteeing this right would be to ensure that inmates receive access to an adequate prison library and its legal materials. "Although there may be a number of alternative measures, maintaining prison law libraries is one of the most effective and meaningful methods of assuring prisoners access to the courts."[4] Also, in regards to the cost of providing access to the courts, "[i]n most cases, it has been cheaper for states to supply law libraries and designate the most qualified inmates to act as clerks."[5]

LITERATURE REVIEW

Materials on the specific topic of library access for death row inmates were not found in any of the library and information science journals or serials. All materials found dealt with the topic on a legal basis. Such materials included statutes, case law and standards as set forth by the American Library Association and the American Correctional Association, as well as texts, journals and law reviews. The United States Supreme Court case *Bounds v. Smith* is the leading case regarding the issue of library access for inmates. In this case, state prison inmates in North Carolina brought actions "alleging that a state, by failing to provide them with adequate legal library facilities, was denying them reasonable access to the courts and equal protection as guaranteed by the First and Fourteenth Amendments."[6] Most claims brought against prison authorities regarding adequate libraries and access to them cite this case. Another often cited United

[4] Wayne Ryan, "Access to the Courts : Prisoners' Right to a Law Library", 26 Howard Law Journal 91 (1983).

[5] Richard E. Bopp and Linda C. Smith, Reference and Information Series : An Introduction, Englewood, CO : Libraries Unlimited, Inc., 1991, p. 225.

[6] *Bounds v. Smith*, 430 U.S. 817, 52 L.Ed.2d 72, 97 S.Ct. 1491 (1977)

States Supreme Court case is *Cruz v. Hauck*. This case was heard on the basis that petitioners were denied access by prison authorities to law books needed to seek judicial remedies. Justice Douglas of the United States Supreme Court stated that prisoners are "... humans entitled to all the amenities and privileges of other persons ... it is not conceivably plausible to maintain that essential books can be totally banned."[7] There are numerous other United States District Court cases, United States Court of Appeals cases and State of Ohio cases which deal with this issue. Such cases include: *United States v. Sammons*[8], *Taylor v. Perini*[9], *State v. Day*[10], *United States v. Smith*[11] and *Abdul Akbar v. Watson*.[12]

In the case, *State v. Day*, the appellant in a Ross County, Ohio, Court of Appeals claimed he was denied meaningful access to a law library. However, in this instance, the appellant had an attorney assigned to him as co-counsel on the case. This filled the *Bounds* requirement of adequate assistance from a person trained in the law. The Sixth Circuit Court of Appeals for the United States had a case presented to it similar to the *Day* case which specifically dealt with access to a prison law library by a criminal defendant. In *United State v. Smith*, the defendant knowingly and intelligently waived his right to counsel and wished to represent himself. He requested access to a law library pursuant to,the Sixth and Fourteenth Amendments to the Constitution of the United

7 *Cruz v. Hauck*, 404 U.S. 59, 30 L.Ed.2d 217, 92 S.Ct. 313 (1971)
8 *United States v. Sammons*, (C.A. 6, 1990), 918 F.2d 592
9 *Taylor v. Perini*, 477 F.Supp. 1289 (1979)
10 *State v. Day*, 72 Ohio App.3d 82, 593 N.E.2d 456 (1991)
11 *United States v. Smith*, (C.A. 6, 1990), 907 F.2d 42
12 *Abdul Akbar v. Watson*, 775 F.Supp. 735 (D.Del. 1991)

States and used *Bounds v. Smith* to present his case. The defendant lost his case and was never granted access. The court stated "Not only do we find that *Bounds* is not controlling in the context of a criminal trial, but we conclude that *Bounds* is completely inapplicable. We find that by knowingly and intelligently waiving his right to counsel, the appellant also relinquished his access to a law library."[13] In *Abdul Akbar v. Watson*, a Delaware state maximum security prisoner filed a suit stating his access to the courts was being denied since he was not allowed physical access to the institution's main library. He and the other prisoners in the Maximum Security Unit (MSU) were granted access to a satellite library which contained limited materials and had limited hours of operation. These inmates also had access to a paging system, in which they could request a specific cite from the main library and the materials would be delivered to them. The Delaware District Court ruled that these library policies and practices were constitutionally inadequate in providing access to the courts. The Court ruled that the institution had to develop a new plan in order to provide adequate access to the courts.

The only case that mentions access in regards to death row inmates is *Murray v. Giarratano*. In this case, indigent death row inmates brought class action against the state alleging they should receive more assistance than that outlined in the *Bounds v. Smith* case. While the decision of the *Bounds* case stated prisoners are capable of using the law books, the *Giarratano* case declared that decision ". . . was invalid with respect to death row prisoners in Virginia."[14] Three reasons were presented to explain this fact.

[13] *United States v. Smith*, (C.A. 6, 1990), 907 F.2d 42
[14] *Murray v. Giarratano*, 109 S.Ct. 2765 (1989)

The first is that death row prisoners in Virginia do not have enough time to present a petition according to Virginia's death penalty scheme. Too much legal work is needed to be done in a short period of time. Secondly, the process is much too difficult for a prisoner to perform. Lastly, an inmate who has been sentenced to death cannot effectively use a law library since "an inmate preparing himself and his family for impending death is incapable of performing the mental functions necessary to adequately pursue his claims."[15] The outcome of this case was therefore to provide these death row inmates with adequate legal assistance rather than access to a law library.

The agency responsible for libraries within correctional institutions nationally is the American Correctional Association. They ". . . administer the only national accreditation program for all components of adult and juvenile corrections. Their purpose is to promote improvement in the management of correctional agencies through the administration of a voluntary accreditation program and the ongoing development and revision of relevant, useful standards." These standards are listed in the publication *Standards for Adult Correctional Institutions*.[16] Standard 3-4256 states "Written policy, procedure, and practice provide that inmates in segregation have access to legal materials."[17] This policy helps to ensure inmates' legal rights. 3-4257 declares that these same inmates should have access to reading materials. Standard 3-4264 states "Written policy, procedure, and practice provide for the right of inmates to have access to an

[15] Ibid., 2780.

[16] American Correctional Association, Standards for Adult Correctional Institutions, 3rd Ed. (Laurel, MD: American Correctional Association, 1990).

[17] Ibid., 84.

appropriate law library. The law library includes at a minimum relevant and up-to-date constitutional, statutory, and case law materials, applicable court rules, and practice treatises. When an inmate is unable to make meaningful use of the law library on his or her own, the additional assistance necessary for effective access is provided."[18] Assistance should be from persons with legal training, including law schools, public defenders and law libraries. Moreover, standard 3-4447 says "The institution maintains and/or provides access to comprehensive library services that include, but are not limited to, a reference collection containing general and specialized materials, and planned and continuous acquisition of materials to meet the needs of the institutional staff and inmates."[19] Other services include organization, circulation and promotion of library materials, discussion groups and audiovisual materials. Standard 3-4448 states "The institution has a qualified staff person who coordinates and supervises library services"[20] and while standard 3-4449 declares "There is available to the institution a person with a master of library science degree who assists in coordinating and supervising library services and is responsible for training of all library staff."[21] Furthermore, standard 3-4450 indicates "Written policy defines the principles, purposes and criteria used in selection and maintenance of library materials."[22] 3-4451 states "The library participates in interlibrary loan programs."[23] Standard 3-4452 says "Library services are available daily, including evenings and weekends."[24] Lastly, standard 3-4453 notes that "Written

18 Ibid., 88.
19 Ibid., 153.
20 Ibid., 153.
21 Ibid., 153.
22 Ibid., 154.
23 Ibid., 154.
24 Ibid., 154.

policy, procedure, and practice provide for the selection, training and use of inmates as library assistants."[25]

In Ohio, provision of library services to inmates housed in correctional institutions falls under the auspices of the Ohio Department of Rehabilitation and Correction (DRC). DRC administers all aspects of the state's prison system, including custody, supervision and programming for all persons committed to prison terms. Ohio Administrative Code (OAC) 5120-9-48 states that DRC allows all inmates reasonable access to legal materials. Inmates in special custody shall be allowed the same access to legal materials as those inmates in general population. However, they are not physically allowed to use the library and materials will instead be provided to the inmate on a reasonable basis. A schedule of library hours shall be established when these legal materials can be used. If possible, the library will keep hours in the evenings and on weekends. In March 1990, Larry D. Mathews, Chief Inspector for the Ohio Department of Rehabilitation and Correction compiled a list of minimum required materials for inmate law libraries which is attached as Appendix A. The American Library Association has had much influence in developing and maintaining standards for libraries in correctional institutions. The organization has worked with the American Correctional Association in developing library standards and will be discussed later.

There are articles in legal encyclopedias, texts and law journals that discuss the provision of a library and library services for prison inmates. These all deal with inmates

[25] Ibid., 154.

in general and not necessarily death row inmates. For example, 73 Ohio Jurisprudence 3d Penal and Correctional Institutions §19 (1987 and Supp. 1994) states that as noted in the case *Taylor v. Perini*, 477 F.Supp. 1289 (ND Ohio), penitentiaries are required to maintain an adequate law library. Also, 60 American Jurisprudence Penal and Correctional Institutions §74 (1987 and Supp. 1994) declares constitutionally adequate law libraries and access to them must be provided to inmates in lieu of adequate legal assistance. This is to provide meaningful access to the courts. Moreover, 72 C.J.S. Prisons and Rights of Prisoners §115 (1987 and Supp. 1994) states adequacy is determined by whether or not the library provides meaningful access to the courts as prescribed in *Bounds v. Smith*. Prison administrators have the authority to regulate the library as far as time of use, manner of use and like matters are concerned. Contents of a prison library must be adequate to support prisoner claims. Examples of what may or may not be adequate are provided. This includes federal court reporters for prisoners in federal custody and state materials for prisoners in state custody. Security restrictions may prohibit physical access to the library but these inmates must be provided with adequate access to the library by other means such as the use of an effective paging system.

Individual Rights Series : Rights of Prisoners, 2nd ed. by Michael Mushlin (New York : Shepard's/McGraw-Hill, 1993) addresses what constitutes an adequate law library as far as materials, furnishings and hours of operation are concerned. Conditions of adequacy include that the library have the books inmates realistically need to perform

legal research, these books are made available to the inmates and that these books are kept current. Materials needed for adequacy include state and federal statutes, state and federal reporters and secondary tools such as Shepard's Citations and basic treatises in various subjects. The library must be furnished with tables, chairs and suitable lighting. It must also have sufficient room to house the collection and sufficient room for the inmates to perform their legal research. For the library hours of operation to remain adequate, the library must remain flexible in meeting inmates' needs and also keep evening and weekend hours. Also, it deals with how to make the library accessible to inmates, especially those who are not able to visit it. Such means include the establishment of satellite libraries, the use of trained inmate legal assistants and a book paging system that works in conjunction with the satellite library and legal assistants. The *Prisoners' Self-Help Litigation Manual, 2nd ed.* by Daniel E. Manville (New York : Oceana Publications, Inc., 1983) discusses inmate access to the library due to its importance as access to the courts. Again, the library itself must be adequate as well as prisoner's access to the library. Adequacy may be defined as the library containing the materials on recommended book list of the American Association of Law Libraries Committee on Law Library Services to Prisoners (See Appendix B), provision of legal assistance to those inmates in need of it, and delivery of books to those prisoners housed in segregation units. The publication *Library Standards for Adult Correctional Institutions 1992* provides ". . . a tool for the planning, implementation , and evaluation of general library services in adult correctional institutions."[26] Standard 1.1 states

[26] American Library Association, Library Standards for Adult Correctional Institutions 1992, (Chicago : American Library Association, 1992), p. 1.

"Library services shall be accessible to all inmates regardless of sentence, security designation, or placement in the institution."[27] Standard 6.1 declares "services of the library shall include technical services, user services to both general population and inmates in limited access status, and programs in a variety of formats."[28] Limited access status is defined as the status of inmates in the institution who have restricted movement, such as inmates on death row. Standard 6.7 provides "The library shall provide services to inmates in limited access status comparable to those provided the general population."[29] These standards also discuss such topics as administration, staffing, budget and facility as they are applicable to an institution's main library.

Some books were found on the topic of prison law libraries in general. *Planning a Legal Reference Library for a Correctional Institution*[30] mainly discusses standards for such physical requirements of the library as floor plans, shelving and equipment. It includes pictures to help the librarian actually set up the library. *Werner's Manual for Prison Law Libraries*[31] deals with almost all aspects of prison libraries. Topics include: staffing; the facility itself; law books for the collection; acquisitions; and cataloging. "This manual is offered as a guide for the establishment and operation of prison law libraries."[32]

27 Ibid., 11.
28 Ibid., 21.
29 Ibid., 21.
30 Olga B. Wise and J. MacGregor Smith, Planning a Legal Reference Library for a Correctional Institution, (Chicago : National Clearinghouse for Criminal Justice Planning and Architecture, 1976).
31 Arturo A. Flores, Werner's Manual for Prison Law Libraries, (Littleton, CO : Fred B. Rothman & Co., 1990).
32 Ibid., XIV.

The author of the text, *Inspecting A Prison Law Library*[11], has compiled his own set of standards that he feels is most useful. In developing these standards, he has taken into account the standards set forth by such associations as the American Correctional Association, American Library Association and American Association of Law Libraries. His standards are as follows:

Standard 1. The Prison Law Library.

A) Each Prison shall maintain and administer a law library adequate to serve its inmate population.

B) The law library shall have its own, separate physical area, dedicated to its quiet use.

Standard 2. Library Materials.

A) The law library's book collection shall be adequate to meet the needs of its prison population.

B) The sets shall be complete, current and in useable form. The supporting materials (digests, indexes, citators, etc. to the sets) must be available.

C) An up-to-date catalog of the library's resources shall be maintained, in an easily accessible location in the law library for public use.

Standard 3. Shelf Space.

A) There shall be sufficient shelf space for both the present book collection and for future growth and expansion of the collection.

B) The book stocks shall be composed of sturdy materials of a permanent nature and built to conform to traditional library shelf specifications and design.

C) There shall be the appropriate storage facilities for materials acquired in the newer technologies for both the present collection and for future growth and expansion of such materials.

Standard 4. Reader Stations.

A) There shall be a minimum of eight chairs and two large tables in the law library. A ratio of one chair per every twenty inmates, (5%) in the total prison population shall be maintained. The number of tables to seats shall be 1 table to 4 chairs.

B) 30 square feet of space shall be dedicated for each inmate-user.

Standard 5. Space for Staff Members.

A) There shall be adequate work space, equipment and furnishings to allow each staff member to function properly and efficiently.

[11] Gene Teitelbaum, Inspecting a Prison Law Library, (Holmes Beach, FL.: Wm. W. Gaunt & Sons, Inc., 1989).

B) 140 square feet of space in the law library shall be allotted to each staff member.

Standard 6. Writing Supplies.

There shall be available in the law library for prisoner's use:

A) Photocopying machine, which may be operated for a fee.

B) Electric typewriters, well maintained and in good working order.

C) Stationary, such as pens, pencils, bond paper, carbon paper, yellow pads, scotch tape, stapler, etc.

Standard 7. Access to the Law Library and Hours of Operation.

A) The law library shall be open every day of the week, and shall be open a sufficient number of hours to allow each inmate enough time to perform legal research.

B) The law library shall be open both during work and non-work hours.

C) A prisoner shall be able to use the law library without obtaining permission of his guard or supervisor.

D) People in the prison hospital or in isolation, or physically handicapped, shall have access to law library materials.

Standard 8. Circulation Policy.

Generally, legal materials do not circulate (leave the law library).

Standard 9. Staff.

A) There shall be a sufficient number of competent inmate-staff members to adequately operate the law library.

B) Before beginning to work in the law library, each inmate-staff member shall receive in-depth training both in properly operating a law library and in performing legal research.

C) There shall be at least one inmate-staff member on duty when the law library is open for prisoner use.

Standard 10. Ambiance.

The law library shall be:

A) Properly lighted.

B) Located away from constant and continuing high levels of noise.

C) Kept at the appropriate temperature for the season.

D) Well ventilated.

Standard 11. New Technology.

When prudent or necessary, a prison law library shall contain legal materials in non-letter press formats. It shall have the appropriate equipment for viewing and for reproducing said materials.

Standard 12. Access to Other Law Libraries.

A) A prison law library and librarian shall have access to other libraries and librarians for materials, assistance, advise and counsel.

B) It should participate in interlibrary loan programs and cooperative projects.

Standard 13. Access to Attorneys and Other Legal Persons.

In addition to an adequate law library, in order to fully implement the *Bounds* doctrine, prisoners shall be able to consult attorneys and other legal persons.

Standard 14. Inspection.

To ensure that a prison law library conforms to these standards and follows the *Bounds* doctrine, there shall be periodic, on-site inspections by impartial inspectors.

The author also describes the books that should be contained in the prison library's collection. These include: 1) Codes; 2) Case Reporters; 3) Digests and Encyclopedias; 4) Shepard's Citations; 5) Texts; 6) Form Books; 7) Law Reviews and Legal Periodicals; 8) Reference Books; and 9) Other State Materials.

HISTORICAL ACCOUNT

In February 1995, the 143 inmates housed on death row were transferred to Mansfield Correctional Institution located in Mansfield, Ohio from the Southern Ohio Correctional Facility (SOCF) in Lucasville, Ohio. At SOCF, these inmates had different access to the prison library than the institution's general population prisoners. They did not have physical access to the main library. They were only able to request information from the main library, but there was no guarantee when the inmate would receive the requested material. The inmates did have access to a facility known as the Death Row Satellite Law Library.

Information regarding the Death Row Satellite Law Library was obtained from the following three documents filed in court by Death Row inmates: 1. Williams, et al.

v. Wilkinson, et al., Motion for Preliminary Injunctive Relief filed in the United States District Court for the Southern District of Ohio Eastern Division; 2. Williams, et. al. v. Wilkinson, et al. Civil Action 42 U.S.C. §1983[34] Complaint in the United States District Court for the Southern District of Ohio Eastern Division; and 3. Williams, et al. v. Wilkinson, et al., Case No. C-1-93-0437, Amended Complaint for Individual and Class Action Relief with Jury Demand in the United States District Court for the Southern District of Ohio Western Division. These documents were all obtained through Mr. Williams. Also, this information was verified by Mr. Williams through a personal interview conducted with him on March 31, 1995 at the Mansfield Correctional Institution.

On October 19, 1981, Ohio's Death Penalty scheme was reinstated by the Ohio Legislature. The first inmates to receive the new death penalty were placed on Ohio's Death Row at the Southern Ohio Correctional Facility in 1982. At this time, these death row inmates were not permitted to physically access the prison law library, legal clerks or legal materials. "Legal research is near impossible when a layman is denied physical access to the library or alternatively denied assistance."[35] These inmates could, however, request three law books, twice a week from the main prison library through a paging system, also known as an exact-cite system. As previously mentioned, "A 'Paging System' in which a prisoner who is denied direct access to the law library is allowed to

[34] This statute deals with the deprivation of constitutional or statutory rights in regards to a citizen's civil rights. §X of the statute deals specifically with prisons and prisoners.

[35] *Clayton v. Tansy*, 21 F.3d 1120 (10th Cir.(N.M.))

request that legal materials be brought to his or her cell, does not provide adequate access to the courts."[36] "Standing alone, law libraries that are adequate for prisoners who know how to use them and who have reasonable physical access to their collections are not adequate for prisoners who . . . because of protracted confinement in administrative or punitive segregation or protective custody, may not be able to identify the books they need."[37] This request for materials had to be written and accurate, including correct volume, page number and citation. This process continued until 1987, although service and access to materials from the main library never improved for these inmates. In February 1987, the Death Row Unit Manager, Oscar E. McGraw, opened death row's Satellite Law Library in an empty cell located on death row. Mr. Donald Williams, a resident of death row, was assigned the job of Legal Clerk, with the only job requirements being the ability to read and write. The Death Row Satellite Law Library was opened from 8:00 a.m. until 3:30 p.m. Tuesdays and Thursdays; 11:00 a.m. until 3:30 p.m. Mondays, Wednesdays and Fridays; and 8:00 a.m. until 12:00 p.m. on Saturdays. At this time, the library contained approximately 10 legal books including such titles as: Ohio Revised Code Titles 29, 51 and 53, three Ohio Criminal Practice and Procedure books, and the text, Constitutional Rights of Prisoners. Upon written request, inmates were allowed to go to the Death Row Satellite Law Library one at a time. However, they were not allowed physical entry into the cell. Legal research had to be conducted through Mr. Williams with the inmate handcuffed outside of the library cell. At this time, there were 74 inmates housed on Ohio's Death Row.

[36] *Casey v. Lewis*, 834 F.Supp. 1553 (D.Ariz. 1992)
[37] *Knop v. Johnson*, 977 F.2d 996 (6th Cir. 1992)

In 1988, the Unit Manager moved the Death Row Satellite Law Library to a new location, a dayroom, approximately 13½ x 20 feet in size. Additional reference books and legal materials were ordered, along with such necessities as paper, pens, pencils, filing cabinets and a typewriter. The hours of operation at the new location expanded to 8:00 a.m. until 6:00 p.m. Monday through Friday. Saturdays were reserved for Inmate Williams to conduct his own personal legal research. Inmates were now allowed to physically enter the Death Row Satellite Law Library and did not have to be handcuffed. By this time, the death row population had increased to 85 inmates. In July of 1988, a Legal Typist Clerk was assigned to work in the Death Row Satellite Law Library. The typist was to type various legal letters and documents and perform clerical work. This would leave Mr. Williams more time to fulfill his duties which included performing legal research, giving legal advice and the maintaining the overall operation of the library. Due to the increase in the death row population and the great extent to which the library was being utilized, a second Legal Clerk was assigned to the library to assist Inmate Williams in performing his duties for the other death row inmates. Neither Legal Clerk had any formal training in the law.

In February 1991, under the supervision of a new Death Row Unit Manager, the Death Row Satellite Law Library was once again moved. The library hours of operation were cut back to 8:00 a.m. until 10:30 a.m. Monday through Friday and inmates were required to wear handcuffs while in the library. However, in June of 1991 another Unit

Manager was put in charge of Death Row and he unofficially expanded the hours of operation from 8:00 a.m. until 3:30 p.m. Monday through Friday. Once again, this time in September 1991, operational hours of the library were cut. This time, hours were 8:00 a.m. to 10:30 a.m. and 11:45 a.m. to 1:45 p.m. Monday through Friday. The library was closed on weekends. Inmate Williams had his working days cut from five days a week to three days a week, while the other Legal Clerk would now be working only the other two days of the week. The typist was working as much as possible to keep up with the amount of work being generated by the two Legal Clerks

The procedure for accessing legal materials at the Satellite Law Library has consistently been the same since the library was created. The procedure begins with death row inmates requesting a legal slip from correction officers. Inmates fill out the request slip and send it to the Death Row Unit Manager's Office. The Unit Manager's Office date stamps the request slip and forwards it to the Satellite Law Library. Once the Legal Clerks receive the request slip, the slip is placed in the order it was received and inmates are then put on a waiting list until they are called to the library. It takes on an average of five to ten days for an inmate to be called to the library once a request form is submitted. The Legal Clerks tell corrections officers which inmate they need to see and the officers then send for the inmate. Once a Legal Clerk requests for a certain inmate to be brought to the Satellite Law Library, it takes between 15 minutes and 1/2 an hour for the inmate to arrive at the library. Inmates are allowed physical access to the Death Row

Satellite Law Library one inmate at a time, for approximately one hour per week. Inmates must be handcuffed at all times while in the library.

Problems affecting the Death Row Satellite Law Library are many and this directly affects the access inmates receive to legal materials and the courts. As previously stated, inmates must fill out a request slip for entry into the Satellite Library. However, sometimes there are no request slips for the inmates to use because the institution does not have any available. Also, once request slips are submitted, they are sometimes lost. Prison authorities will claim they never received a request form when inmates did indeed submit the request. The Death Row Satellite Law Library is also used for other activities such as a barber shop, a meeting room and an area for religious services to be conducted. As long as another activity is occurring in the library, or even in the same area as the library, inmates will not be called to the library. Also, the hours of operation of the Satellite Law Library frequently conflict with other activities the inmates are involved in. Such activities include recreation, showers, sick call and commissary. Once again, no inmates will be called to the Satellite Library in this instance. Therefore, there is a delay in getting inmates to the library and only a few request slips may be completed per day. Currently, death row inmates have no written policies regarding the day to day operation of the Satellite Law Library. There has been little communication between inmate Williams and the prison administration at SOCF regarding the Satellite Library.

Death row residents were still able to request books from the institution's main Law Library. The maximum being six law books per week with books being delivered twice a week. Three books would be delivered at a time and the books could only be kept for three days at a time. In order to receive books, full and accurate citations must be provided. However, since almost all the materials in the Satellite Law Library are out-dated, it is very difficult for the inmates to provide full and accurate citations. Sometimes, requests from the main Law Library arrive late or not at all. The reasons for this include: cases being torn out of the books, cases already being checked out and not having the case available in paperback form. (See Appendix C for examples of requests and replies). As some courts have pointed out book paging systems rarely run efficiently. Inmates lack the materials and the ability that would allow them to be precise in their requests. Thus, it will often "take several requests . . . before [inmates] target relevant case citations."[38] Moreover, often the clerks who receive the requests operate in a slip-shod manner and do not help the inmate receive items that they have clearly, if not precisely, identified.[39]

From the onset of the Satellite Library, materials in the library have been extremely limited and extremely outdated. "In large part, due to the very nature of our laws and their readily susceptibility to change, the need for continuous updating of the legal materials is particularly important."[40] In order to try and supplement the limited

38 *Tillery v. Owens*, 719 F. Supp. 1256 (W.D.Pa. 1989)

39 *Abdul Akbar v. Watson*, 775 F. Supp. 735 (D.Del. 1991)

40 Wayne Ryan, "Access to the Courts : Prisoners' Right to a Law Library", 26 Howard Law Journal 91 (1983) p. 103.

research materials available in the Satellite Law Library, the Legal Clerks and Typist have had to go to outside sources for law books, research materials and supplies. One Columbus area law firm would send the Georgetown Law Review periodical to the Satellite Library, but at least 60% of the books in the library have come from the Office of the Ohio Public Defender. Mr. Williams' attorney, an attorney with the Ohio Public Defenders office, along with the institution's administration, permitted Mr. Williams to receive books for the library. The librarian at the Office of the Ohio Public Defender could send one book once every week or two weeks to Mr. Williams. Appendix D lists the books sent by the office between 1992 and the present. Such periodicals as the Sixth Circuit Review, The Criminal Law Reporter and Prison Legal News also were sent.

The 143 residents of Death Row were moved to the Mansfield Correctional Institution (MaCI) in February 1995. The Satellite Library at the Southern Ohio Correctional Facility was packed up and also moved to MaCI. Under the supervision of a new prison Warden and Unit Manager, library services and access for these inmates was changed drastically. Death Row residents would now have an adequate library for themselves. Mr. Williams, along with the other Legal Clerk and Legal Typist were permitted to keep their jobs in the library. After unpacking the materials moved from the Satellite Library, one of the first tasks was to discard outdated pocket parts and cumulative supplements and replace them with more current ones. The library, no longer called a Satellite Library since it is self-sufficient, now contains such sets of books as West's Ohio Digest, North Eastern Reporters Second Edition, United States Supreme

Court Reporters, Federal Reporters and Federal Supplements. The librarian at MaCI is working with Mr. Williams to create an adequate library. The librarian has already ordered the Corpus Juris Secundum and Ohio Jurisprudence encyclopedias for the library. All purchases for the library will be through the institution's librarian who will inventory all materials.

Plans are currently being made to expand the library since more shelving is needed to accommodate the growing collection. As was the case at SOCF, only one inmate at a time is permitted to enter the library. The library is usually open for twelve hours a day, but that is dependent upon Mr. Williams and the other library employees. They are able to use their own discretion in the keeping operational hours for the library. Legal research is performed for Death Row residents only, but books are delivered to one unit of the General Population inmates and some inmates who were involved in the 1993 Lucasville riot at SOCF and are in special custody. Typing is also performed at the Death Row Library for these inmates.

CONCLUSION

Like all prisoners, death row inmates require access to an adequate law library in order to guarantee access to the courts. They should be afforded this right regardless of their sentence of death. While housed at the Southern Ohio Correctional Facility, these inmates were denied physical access to the institution's main library and the process of

receiving books from there was slow and ineffective in meeting inmate needs. When the Satellite Library was created, death row inmates received somewhat better access to legal materials and access to legal assistance, albeit from persons untrained in the law. These inmates were attempting to operate a library to support themselves without much help from prison authorities. Legal documents, which are still pending, were filed in Courts in an attempt to make this Satellite Library adequate under the *Bounds* requirements. With the move to the Mansfield Correctional Institution in early 1995, death row inmates were introduced to a more complete library. Prison authorities are now working with death row inmates in an attempt to produce and maintain a self-sufficient library. New books have been ordered and plans are under way to enlarge the library to accommodate a larger collection. What was once considered a Satellite Library at SOCF with few outdated books is now at MaCI an entity unto itself almost solely for the use of death row inmates. This library now can be considered adequate in guaranteeing access to the courts for Ohio inmates housed on death row.

MINIMUM REQUIRED MATERIALS FOR INMATE LAW LIBRARIES

Larry D. Mathews 3/27/90

I. FEDERAL MATERIALS

* A. United States Code Annotated - West Publishing Company. Required Volumes - All with Current Supplement.

1. Constitution
2. Title 18
3. Title 28 (Sections 2241-2253)
4. Title 42 (Sections 1981-1985)
5. Federal Rules of Appellate Procedure
6. Rules of Supreme Court.
7. Federal Rules of Evidence.

B. Supreme Court Reporter - West Publishing Company. Begin Volume 80 (1960) through present date.

C. Federal Reporter (2nd Series) West Publishing Company. Begin Volume 273 (1960) through present date.

D. Federal Supplement - West Publishing Company. Begin Volume 180 (1960) through present date.

E. Rules of Local Federal District courts -(Variety of Sources).

1. United States District Courts - Northern District of Ohio.
2. United States District Courts - Southern District of Ohio.

*An acceptable substitute would be the appropriate volumes from United States Code Service - Lawyers Edition - Lawyers Cooperative Publishing Company.

APPENDIX A

II. STATE MATERIALS

** A. North Eastern Reporter (2nd Series) (Ohio Cases) West Publishing Company.
Beginning Volume 159 (1960) through present.

B. Ohio Revised Code - Page's by Anderson Publishing Company or Banks Baldwin.

Required Volumes all with Current Supplements:

	Page's	Banks Baldwin
1.	Appendix	Constitutions, Tables, General Provisions.
2.	Civil Rules	Rules of Court I
3.	Title I	Title I
4.	Title 19	Title 19, 21
5.	Title 21	
6.	Title 23, 25	Title 23, 25, 27
7.	Title 27	
8.	Title 29	Title 29
9.	Title 37	Title 37
10.	Title 51	Title 51

C. Schroeder - Katz Ohio Criminal Law Practice and Forms - Banks Baldwin Volumes 1 & 2 with Current Supplement Material.

D. Ohio Administrative Code (Administrative Regulations).

1. 5120-2 Series
2. 5120-9 Series
3. 5120:1-1 Series

**An Acceptable substitute is Ohio Official Reports by Anderson Publishing Company.

APPENDIX A

III. SHEPARDS CITATIONS

A. Shepards United States Citations

1. Case Edition

2. Statute Edition

B. Shepards Federal Citations

1. Part 1 Covering Federal Reporter & Federal Cases

2. Part 2 Covering Federal Supplement, Federal Rules Decisions, Court of Claims.

C. Ohio Citations

GENERAL MATERIALS

1. Complete Manual of Criminal Forms, Federal and State, Bailey, F. Lee and Rothblatt, Henry B. Rochester: Lawyers Cooperative, 1968.

2. Black's Law Dictionary; Black, Henry C. (latest ed.) St. Paul: West.

3. Legal Research in a Nutshell (latest ed.); Cohen, Morris L., St. Paul: West.

4. Criminal Procedure in a Nutshell, Israel, Jerold H. LaFave, Wayne R., St. Paul: West

5. Federal Habeas Corpus (latest ed.), Sokol, Ronald P., Charlottesville, VA.: Michie.

6. Constitutional Rights of Prisoners; Palmer, John W. (latest edition with current supplement); Cincinnati: Anderson.

7. Criminal Law Reporter. Washington, D.C.: Bureau of National Affairs. Weekly.

APPENDIX A

American Association of Law Libraries
Special Interest Section

Recommended Collections for Prison Law Libraries (1989)

United States Code Annotated (Constitution, Title 18 and Federal Criminal Rules; Title 28 (§§ 2241-2280) and Federal Rules of Appellate Procedure, Federal Rules of Evidence and Rules of the Supreme Court; Title 42 (§§ 1981-2000d[6])

OR

United States Code Service (Constitution, Title 18 and Federal Criminal Rules, Title 28 (§§ 1961 - end) and Federal Rules of Appellate Procedure, Federal Rules of Evidence and Rules of the Supreme Court; Title 42 (§§ 1981-1985)

Supreme Court Reporter (vol. 80 to current)

OR

United States Supreme Court Reports 2d Series (vol. 1 to current)

Federal Reporter (from 1975 to current)
Federal Supplement (from 1975 to current)
Shepard's United States Citations
Shepard's Federal Citations
West's Federal Practice Digest, 2d, 3d, and 4th

Charles A. Wright, Federal Practice and Procedure (1977)

OR

Lester B. Orfield, Criminal Procedure Under the Federal Rules (1985)

Richard A. Givens, Manual of Federal Practice (Shepard's/McGraw-Hill 3d Ed. 1987)
Robert L. Stern et al, Supreme Court Practice : For Practice in the Supreme Court of the United States (6th Ed. 1986)
James S. Liebman, Federal Habeas Corpus Practice and Procedure (1988)
Michael H. Graham, Federal Rules of Evidence in a Nutshell (2nd Ed. 1986)
Thomas Hutchinson and David Yellen, Federal Sentencing Law and Practice (1989)

Appendix B

LEGAL SERVICES DEPARTMENT
DEPARTMENT OF REHABILITATION AND CORRECTION
SOUTHERN OHIO CORRECTIONAL FACILITY
Post Office Box 45699 SOCF
Lucasville, Ohio 45699-0001

K-4-62
LOCK

SERVICES FORM

Hutton — NAME
195-620 — INSTITUTION NUMBER

ON THE BELOW LISTED DATE, I HAVE RECEIVED THE FOLLOWING SERVICES:

( ) NOTARY SERVICE

( ) TYPING

( ) INTERVIEW

( ) BOOKS 99 S.Ct. Paperback #15
558 F.2d (#1)

( ) PHONE CALL

( ) OTHER

COMMENTS: Bounds v. Smith, 97 S.Ct. 1491, is currently checked out. Sorry.

Hutton — NAME
9-10-91 — DATE

SS/LA-4330 (Rev. 6-7-79)

APPENDIX C

SOUTHERN OHIO CORRECTIONAL FACILITY
LEGAL SERVICE DEPARTMENT

NAME: Hutton DATE: 8-27-91

NUMBER: 195-620 LOCK: K-4-62

The material you have requested cannot be sent to you at this time for the following reason(s) listed below;

(__) The book(s) you have requested are not in at this time, please re-kite.

(__) The material you have requested we do not stock.

(__) You have to make your request more specific, describe in your next kite what section(s) you need information on.

(X) Other Kidy v. Higgids, 702 F 2d 18, has been torn out. Sorry.

PAT BURNETT
LEGAL SERVICE SUPERVISOR, SOCF

CC: File
8/14/90

APPENDIX C

LEGAL SERVICES DEPARTMENT
DEPARTMENT OF REHABILITATION AND CORRECTION
SOUTHERN OHIO CORRECTIONAL FACILITY
Post Office Box 45699 SOCF
Lucasville, Ohio 45699-0001

K-4-41
LOCK

SERVICES FORM

Frazier
NAME

199-539
INSTITUTION NUMBER

ON THE BELOW LISTED DATE, I HAVE RECEIVED THE FOLLOWING SERVICES:

( ) NOTARY SERVICE

( ) TYPING

( ) INTERVIEW

( ) BOOKS 910 637 F.2d

( ) PHONE CALL

( ) OTHER

COMMENTS: The other N.E. request is out

NAME

DATE

SS/LA-4330 (Rev. 6-7-79)

APPENDIX C

BEST COPY AVAILABLE

LEGAL SERVICES DEPARTMENT
DEPARTMENT OF REHABILITATION AND CORRECTION
SOUTHERN OHIO CORRECTIONAL FACILITY
Post Office Box 4[illegible]99 SOCF
Lucasville, Ohio 45699-0001

[illegible]
LOCK

SERVICES FORM

_____ [illegible]
NAME INSTITUTION NUMBER

ON THE BELOW LISTED DATE, I HAVE RECEIVED THE FOLLOWING SERVICES:

( ) NOTARY SERVICE

( ) TYPING

( ) INTERVIEW

( ) BOOKS 910 771 F2.1

( ) PHONE CALL

( ) OTHER

COMMENTS: 484 IS NOT IN

_____ [illegible]
NAME DATE

SS/LA-4330 (Rev. 6-7-79)

APPENDIX C

LEGAL SERVICES DEPARTMENT
DEPARTMENT OF REHABILITATION AND CORRECTION
SOUTHERN OHIO CORRECTIONAL FACILITY
Post Office Box 45699 SOCF
Lucasville, Ohio 45699-0001

K-4-62
LOCK

SERVICES FORM

Hutton — NAME
195-620 — INSTITUTION NUMBER

ON THE BELOW LISTED DATE, I HAVE RECEIVED THE FOLLOWING SERVICES:

( ) NOTARY SERVICE

( ) TYPING

( ) INTERVIEW

( ) BOOKS 528 F.Supp.

420 F.Supp. (#1)

( ) PHONE CALL

( ) OTHER

COMMENTS: We don't have 702 in paperback. Sorry.

[signature] — NAME

F-26-91 — DATE

3S/LA-4330 (Rev. 6-7-79)

APPENDIX C

LEGAL SERVICES DEPARTMENT
DEPARTMENT OF REHABILITATION AND CORRECTION
SOUTHERN OHIO CORRECTIONAL FACILITY
Post Office Box 45699 SOCF
Lucasville, Ohio 45699-0001

K-4-65
LOCK

SERVICES FORM

Williams
NAME

180-910
INSTITUTION NUMBER

ON THE BELOW LISTED DATE, I HAVE RECEIVED THE FOLLOWING SERVICES:

( ) NOTARY SERVICE

( ) TYPING

( ) INTERVIEW

( ) BOOKS 90d-909F.2d

( ) PHONE CALL

( ) OTHER

COMMENTS: The other book you requested is out at the moment, rekite in order to recieve.

[signature] 180-910
NAME

2/22/82
DATE

SS/LA-4330 (Rev. 6-7-79)

APPENDIX C

BEST COPY AVAILABLE

~~LEGAL~~ SERVICES DEPARTMENT
DEPARTMENT OF REHABILITATION AND CORRECTION
SOUTHERN OHIO CORRECTIONAL FACILITY
Post Office Box 45699 SOCF
Lucasville, Ohio 45699-0001

K-4-41
LOCK

SERVICES FORM

Frazier
NAME

199-539
INSTITUTION NUMBER

ON THE BELOW LISTED DATE, I HAVE RECEIVED THE FOLLOWING SERVICES:

( ) NOTARY SERVICE

( ) TYPING

( ) INTERVIEW

( ) BOOKS Jury Inst Manual 9th Cir. 1992

West Fed. Digest 4th

( ) PHONE CALL

( ) OTHER

COMMENTS: The other book you requested is out

NAME

3/2/93
DATE

SS/LA-4330 (Rev. 6-7-79)

APPENDIX C

LEGAL SERVICES DEPARTMENT
DEPARTMENT OF REHABILITATION AND CORRECTION
SOUTHERN OHIO CORRECTIONAL FACILITY
Post Office Box 45699 SOCF
Lucasville, Ohio 45699-0001

K-3-38
LOCK

SERVICES FORM

Pless
NAME

252-991
INSTITUTION NUMBER

ON THE BELOW LISTED DATE, I HAVE RECEIVED THE FOLLOWING SERVICES:

RECEIVED
FEB 16 RECD
CASE MANAGERS OFFICE
DEATH ROW UNIT

( ) NOTARY SERVICE

( ) TYPING

( ) INTERVIEW

( ) BOOKS 268-271 488-491 O.S. 2d N.E.

( ) PHONE CALL

( ) OTHER

COMMENTS: Sir, Always use N.E. citings instead of Oh App
The other books you requested are out. Please re
kite. Sorry

NAME

DATE

SS/LA-4330 (Rev. 6-7-79)

APPENDIX C

BEST COPY AVAILABLE

Partial List of Books Sent by the Office of the Ohio Public Defender to the Death Row Satellite Law Library at SOCF

Advocacy : The Art of Pleading a Cause, 2nd Ed. by Richard A. Givens (w/ 1991 Cumulative Supplement)

Black's Law Dictionary, 5th Ed.

Constitutional Law Deskbook : Individual Rights by Ralph Chandler. Lawyer's Cooperative Publishing, 1987

Constitutional Rights of Prisoners, 3rd Ed. by John W. Palmer. Anderson Publishing

Directory of State Court Clerks and County Courthouses, 1993 Ed. Want Publishing Co., 1992

Eyewitness Testimony : Civil and Criminal by Elizabeth F. Loftus and James M. Doyle. Michie Co., 1987

Federal Appeals Jurisdiction and Practice by Michael E. Tigar. Shepard's/McGraw-Hill

Federal Civil Judicial Procedure and Rules, 1993 Ed. West Publishing, 1993

Federal Criminal Appeals, 2nd Ed. by James C. Cissel (w/ 1991 Cumulative Supplement)

Federal Criminal Code and Rules, 1993 Ed. West Publishing, 1993

Federal Jury Practice and Instructions by Devitt and Blackmar (w/ 1991 cumulative supplement)

Federal Procedural Forms, Lawyers Edition, Appeal, Certiorari, and Review. Lawyer's Cooperative, 1975. Federal Research Coordinator. Lawyer's Cooperative Publishing, 1991

Federal Sentencing Law and Practice 1991 Supplement by Thomas W. Hutchison and David Yellen. West Publishing

Federal Trial Handbook, 2nd Ed. by Robert S. Hunter. Lawyer's Cooperative Publishing, 1984 (w/ October 1992 Cumulative Supplement)

Hearsay Handbook, 2nd Ed. by David F. Binder

Jones on Evidence : Civil and Criminal, 6th Ed. by Spencer A. Gard (a four volume set)

Jury Selection by Walter E. Jordan

Local Rules for the United States District Court for the Southern District of Ohio

Manual of Federal Practice, May 1991 Cumulative Supplement by Richard A. Givens. Shepard's/McGraw-Hill

Manual of Model Criminal Jury Instructions for the District Courts of the Eighth Circuit prepared by The Committee on Model Criminal Jury Instructions Within the Eighth Circuit. West Publishing, 1990.

Ohio Appellate Practice by Alba A. Whiteside. Banks-Baldwin, 1991

Ohio Arrest, Search and Seizure by Lewis R. Katz

Ohio Constitution

Ohio Crimes Digest 1991

Ohio Jurisprudence 3d Vol. 25 §1-406
Vol. 26 §407-862
Vol. 27 §863-1541

Ohio Law and Psychology : A Handbook for Psychologists and Attorneys by Solomon M. Fulero

APPENDIX D

Ohio Mental Health Law by Steven J. Eagle. Banks-Baldwin, 1986
Ohio Official Reports Case Locator 1-50 (1982-1990)
Ohio Rules of Court - State and Federal. West Publishing, 1993
Ohio Rules of Evidence Handbook, 3rd Ed. by Paul C. Gianelli. Banks-Baldwin, 1991
Page's Ohio Revised Code Supplement 1990 (for use in 1991)
Prisoners' Self-Help Litigation Manual, 2nd Ed. by Daniel E. Manville and John Boston
Questioning Techniques and Tactics by Jeffrey L. Kestler. Shepard's/McGraw-Hill
Rights of Prisoners by Gobert and Cohen. Shepard's/McGraw-Hill, 1981
Search and Seizure Checklists, 1992 Ed. by Michele G. Hermann
Standards for Adult Correctional Institutions, 3rd Ed. American Correctional Association
Want's Federal-State Court Directory, 1993 Ed. Want Publishing Co., 1993
Weissenberger's Ohio Evidence 1991 Courtroom Manual, 1992 Courtroom Manual and 1993 Courtroom Manual. Anderson Publishing
Wharton's Criminal Law, 14th Ed. by Charles E. Torcia. Vol. 1. Lawyer's Cooperative Publishing, 1978
Wharton's Criminal Procedure, 12th Ed. by Charles E. Torcia. Vol. 3 w/ cumulative supplement and Vol. 4. Lawyer's Cooperative Publishing

APPENDIX D

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Ohio Administrative Code §5120-9-48

73 Ohio Jurisprudence 3d Penal and Correctional Institutions §19 (1987 and Supp. 1994).

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United States v. Smith, (C.A. 6, 1990), 907 F.2d 42.

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